



FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA)

APPEAL DECISION

FEMA Flood Insurance Appeal Decision #B14

OVERVIEW

The policyholder filed an appeal in August 2019, alleging her flood insurance carrier (hereinafter “insurer”) improperly denied part of her claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to covered property arising from a reported flood event in June 2019.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$100,000 of building coverage and \$40,000 of personal property coverage.
- Following the flood loss, the policyholder filed a claim with the insurer and the insurer assigned an adjuster to inspect the property.
- The adjuster inspected the property on June 23, 2019, and recorded a waterline of 32 inches to the exterior of the building and a waterline of 81 inches to the interior of the unfinished basement. The adjuster also recorded a waterline of 32 inches to the interior of the detached garage. The floodwater remained for 14 days.
- After the inspection, the adjuster prepared an estimate for damages applying the SFIP’s coverage limitations for items located in a basement and forwarded the report to the adjuster for review.
- The insurer agreed with the adjuster’s recommendations, and in a letter dated June 27, 2019, the insurer denied coverage for the detached garage sheathing, exterior door, two lower overhead door panels, and property located in the basement.
- Due to concerns regarding possible structural and foundation damage, the adjuster recommended the insurer retain an engineer to inspect the property.
- The insurer agreed with the adjuster’s recommendation and retained an engineer to inspect the property. The engineer inspected the property on July 1, 2019, and concluded there was no structural damage to the insured property caused by the flood event. The cracks and gaps in the foundation were caused by on-going and long-term differential movement.
- In a letter dated July 17, 2019, the insurer denied coverage for foundation damage citing the earth movement exclusion.
- The policyholder appeals the denial of coverage for structural and foundation damage.

¹ See 44 C.F.R. § 61.13 (2018); Dwelling Form available at 44 C.F.R. pt. 61 App. A(1) [hereinafter “SFIP”].

² The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance Directorate, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

- The policyholder includes photographs with her appeal. Because this information does not respond to the insurer's reason for denial, FEMA's decision is based on the documentation in the claim file.

RULES

The insurer agrees to pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complies with all terms and conditions of the SFIP.³

The SFIP excludes earth movement, even if directly caused by flood; examples include land subsidence, sinkholes, destabilization or movement of land due to water accumulation, and gradual erosion.⁴

ANALYSIS

The policyholder appeals the denial of coverage for structural and foundation damage.

The SFIP pays for the direct physical loss by or from flood. The SFIP excludes earth movement, even if directly caused by flood; examples include land subsidence, sinkholes, destabilization or movement of land due to water accumulation, and gradual erosion.

Here, during the inspection, the engineer found no evidence of hydrostatic or hydrodynamic forces, flood-borne debris impact, or erosion and scouring around the foundation. The engineer found the cracks in the concrete masonry unit and concrete foundations, the front stoop, and the noted separations were weathered, rounded, or worn along the edges. The engineer concluded that the weathered, rounded, and worn cracks are indicative of long-term exposure to the elements and ongoing differential movement that existed before the flood event. The engineer also noted that portions of the concrete slab in the basement were displaced upwards. The metal columns supporting the floor frame were plumb, and the center floor joist was level, indicating there was no structural damage to the foundation system caused by the flood event.

Settlement is considered damage; however, settlement is not a cause of loss. As soil becomes saturated with water, it loses structural integrity and bearing capacity. When the loads from building structures cause stress on the saturated soil, it results in movement of the soil and the settlement of the foundation. The policyholder lived in the insured dwelling for approximately 21 years and acknowledged the presence of pre-existing settlement cracks to the foundation. The engineer concluded that the numerous cracks, gaps, and separations in the foundation were due to ongoing differential movement. Based on the facts and analysis, FEMA agrees with the engineer's finding of long-term and on-going differential settlement.

FEMA's review finds the insurer correctly denied the claim due to earth movement.

CONCLUSION

Based on the facts and analysis above, FEMA concurs with the insurer's decision to deny coverage for structural and foundation damage due to the earth movement exclusion.

³ See SFIP (I), (II)(B)(12).

⁴ See SFIP (V)(C).

